

1 BILL NO. S-85-06-05

2 SPECIAL ORDINANCE NO. S-114-85

3 ORDINANCE AUTHORIZING THE CITY OF
4 FORT WAYNE TO ISSUE ITS "ECONOMIC DEVELOPMENT
5 REVENUE BONDS
6 (CMK ENTERPRISES PROJECT)
7 SERIES 1985" AND APPROVING
8 OTHER ACTIONS IN RESPECT THERETO

9 WHEREAS, the Fort Wayne Economic Development Commission
10 has rendered its Project Report for the CMK Enterprises Project
11 regarding the financing of proposed economic development facili-
12 ties for CMK Enterprises, an Indiana general partnership and the
13 Fort Wayne Plan Commission has commented favorably thereon; and

14 WHEREAS, the Fort Wayne Economic Development Commission
15 conducted a public hearing on June 6, 1985, and also adopted a
16 resolution on June 6, 1985, which Resolution has been transmitted
17 hereto, finding that the financing of certain economic develop-
18 ment facilities of CMK Enterprises complies with the purposes and
19 provisions of I.C. 36-7-11.9 and 12 and that such financing will
20 be of benefit to the health and welfare of the City of Fort Wayne
21 and its citizens; and

22 WHEREAS, the Fort Wayne Economic Development Commission
23 has heretofore approved and recommended the adoption of this form
24 of Ordinance by this Common Council, has considered the issue of
25 adverse competitive effect and has approved the forms of and has
26 transmitted for approval by the Common Council the Loan
27 Agreement, Mortgage and Indenture of Trust, Guaranty Agreement,
28 Lease with Irmscher Suppliers, Inc., Collateral Assignment of
29 Lease and Rentals, and Lessees Consent and Agreement to Lease
30 Assignment; now therefore,

31 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
32 WAYNE, INDIANA THAT:

Section 1. It is hereby found that the financing of the
economic development facilities referred to in the Loan Agreement

1 approved by the Fort Wayne Economic Development Commission and
2 presented to this Common Council, the issuance and sale of reve-
3 nue bonds, the loan of the proceeds of the revenue bonds to
4 CMK Enterprises for the acquisition, construction and rehabilita-
5 tion of such facilities and the equipping thereof, payment of the
6 revenue bonds by the payments of CMK Enterprises under the Loan
7 Agreement, and, the payment by Irmscher Suppliers, Inc. under the
8 Lease, complies with the purposes and provisions of I.C.

9 36-7-11.9 and 12 and will be of benefit to the health and welfare
10 of the City of Fort Wayne and its citizens.

11 Section 2. The economic development facilities will
12 consist of the acquisition land, construction of a 13,000 sq. ft.
13 warehouse and assembly facility, acquisition of equipment to be
14 located at 2001 S. Calhoun Street, Fort Wayne, Indiana, 46804,
15 and the rehabilitation of an existing building at 2001 S. Calhoun
16 Street, Fort Wayne, Indiana, 46804. The Project will be leased
17 to Irmscher Suppliers, Inc. which will use the facility for
18 wholesale and retail sales of windows and related products and
19 for the general office space needs of the Lessee (the "Project").

20 Section 3. At the public hearing held by the Fort Wayne
21 Economic Development Commission, the Commission considered
22 whether the economic development facilities would have an
23 adverse competitive effect on any similar facilities located in
24 the City of Fort Wayne, and found, based on special findings of
25 fact set forth in the Resolution transmitted hereto, that the
26 facilities would not have an adverse competitive effect. This
27 Common Council hereby confirms the findings set forth in the
28 Commission's Resolution, and concludes that the economic develop-
29 ment facilities will not have an adverse competitive effect on
30 any other similar facilities in the City of Fort Wayne, and the
31 facilities will be of benefit to the health and welfare of the
32 citizens of the City of Fort Wayne.

1 Section 4. The substantially final forms of the Loan
2 Agreement, Mortgage and Indenture of Trust, Guaranty Agreement,
3 Lease with Irmscher Suppliers, Inc., Collateral Assignment of
4 Lease and Rentals, and Lessees Consent and Agreement to Lease
5 Assignment approved by the Fort Wayne Economic Development
6 Commission are hereby approved and each shall be incorporated
7 herein by reference and shall be inserted in the minutes of the
8 Common Council and kept on file by the Clerk. In accordance with
9 the provisions of I.C. 36-1-5-4, two (2) copies of each of said
10 documents are on file in the office of the Clerk for public
11 inspection.

12 Section 5. The City of Fort Wayne shall issue its
13 Economic Development Revenue Bonds (CMK Enterprises Project)
14 Series 1985, in the total principal amount of Five Hundred Fifty
15 Thousand Dollars (\$550,000.00) and maturing on December 1,
16 2000. Said bonds are to be issued for the purpose of procuring
17 funds to pay the costs of acquisition, construction and equipping
18 of the economic development facilities as more particularly set
19 out in the Mortgage and Indenture of Trust and Loan Agreement
20 incorporated herein by reference, which bonds will be payable as
21 to principal, premium, if any, and interest from the payments
22 made by CMK Enterprises under the Loan Agreement and as otherwise
23 provided in the above described Mortgage and Indenture of Trust
24 and, from Lease payments of Irmscher Suppliers, Inc. under the
25 Lease. The bonds shall be issued in fully registered form in the
26 denomination of \$5,000 or any integral multiple thereof. The
27 bonds shall be redeemable as provided in Article III of the
28 Mortgage and Indenture of Trust. Payments of principal and
29 interest are payable in lawful money of the United States of
30 America. Payments of principal are payable at the principal
31 office of the Trustee or its successor in trust. Payments of
32 interest are payable by check mailed to the registered owner as

1 of the Record Date as provided in the Trust Indenture. The bonds
2 shall never constitute a general obligation of, an indebtedness
3 of, or a charge against the general credit of the City of Fort
4 Wayne, nor are the bonds payable in any manner from revenues
5 raised by taxation.

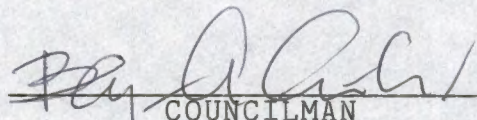
6 Section 6. The Mayor and Clerk are authorized and
7 directed to sell such bonds to the purchasers thereof at a price
8 of not less than 100% of the principal amount thereof. The bonds
9 shall bear interest at a rate of interest per annum equal to 80%
10 of the prime rate of interest as quoted and announced from time
11 to time by Lincoln National Bank and Trust Company of Fort Wayne,
12 Indiana; or as otherwise described in the Mortgage and Indenture
13 of Trust.

14 Section 7. The Mayor and Clerk are authorized and
15 directed to execute, attest, affix or imprint by any means the
16 City seal to these documents to be executed by the City which are
17 approved herein on behalf of the City and any other document
18 which may be necessary or desirable to consummate the transaction,
19 including the bonds authorized herein. The Mayor and Clerk are
20 hereby expressly authorized to approve any modifications or addi-
21 tions to the documents to be executed by the City which are
22 approved herein which take place after the date of this Ordinance
23 with the review and advice of the City Attorney; it being the
24 express understanding of this Common Council that said documents
25 to be executed by the City are in substantially final form as of
26 the date of this Ordinance. The approval of said modifications
27 or additions shall be conclusively evidenced by the execution and
28 attestation thereof and the affixing of the seal thereto or the
29 imprinting of the seal thereof; provided, however, that no such
30 modification or addition shall change the maximum principal
31 amount of, interest rate on or term of the bonds as approved by
32 the Common Council by this Ordinance without further con-

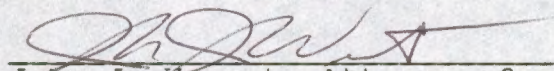
1 sideration by the Common Council. The signatures of the Mayor
2 and Clerk on the bonds may be either manual or facsimile signa-
3 tures. The Clerk is authorized to arrange for delivery of such
4 bonds to the Trustee named in the Mortgage and Indenture of
5 Trust, and payment for the bonds will be made to the Trustee
6 named in the Mortgage and Indenture of Trust and after such
7 payment the bonds will be delivered by the Trustee to the purchas-
8 er thereof. The Mayor and Clerk shall execute and the Clerk
9 shall deliver the bonds to the Trustee within ninety days of the
10 adoption of this ordinance. The bonds shall be dated the date of
11 authentication thereof.

12 Section 8. The provisions of this Ordinance and the
13 Mortgage and Indenture of Trust securing the bonds shall consti-
14 tute a contract binding between the City of Fort Wayne and the
15 holder of the Economic Development Revenue Bonds (CMK Enterprises
16 Project) Series 1985, and after the issuance of said bonds, this
17 Ordinance shall not be repealed or amended in any respect which
18 would adversely affect the rights of such holders so long as any
19 of said bonds or the interest thereon remains unpaid.

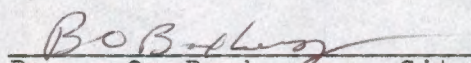
20 Section 9. This Ordinance shall be in full force and
21 effect from and after its passage and signing by the Mayor.

22 
23 COUNCILMAN

24 ADOPTED BY ECONOMIC DEVELOPMENT COMMISSION
25 AND APPROVED AS TO FORM.

26 
27 John J. Wernet, Attorney for the
Economic Development Commission
Dated this 10th day of June, 1985

28 APPROVED AS TO FORM AND LEGALITY.

29 
30 Bruce O. Boxberger, City Attorney
Dated this 10th day of June, 1985

Read the first time in full and on motion by Eisbart, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ .M., E.

DATE: 6-11-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Eisbart, seconded by Delphoid, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>8</u>	_____	_____	<u>1</u>	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	_____	_____	_____	<u>✓</u>	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 6-25-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ANNEXATION~~) (~~APPROPRIATION~~) (~~GENERAL~~)

(~~SPECIAL~~) (~~ZONING MAP~~) ORDINANCE (RESOLUTION) NO. S-114-85
on the 25th day of June, 19 85,

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Mark E. GiaQuinta
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 26th day of June, 19 85, at the hour of 11:30 o'clock A .M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 26th day of June, 19 85, at the hour of 3:00 o'clock P .M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR., MAYOR

BILL NO. S-85-06-05

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) AUTHORIZING THE CITY OF
FORT WAYNE TO ISSUE ITS "ECONOMIC DEVELOPMENT REVENUE BONDS
(CMK ENTERPRISES PROJECT) SERIES 1985" AND APPROVING OTHER ACTIONS
IN RESPECT THERETO

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)

(~~RESOLUTION~~) DO PASS DO NOT PASS WITHDRAWN

YES

NO

B. A. Eisbart
BEN A. EISBART
CHAIRMAN

Janet G. Bradbury
JANET G. BRADBURY
VICE CHAIRWOMAN

Samuel J. Talarico
SAMUEL J. TALARICO

Thomas C. Henry
THOMAS C. HENRY

James S. Stier
JAMES S. STIER

CONCURRED IN 6-25-85

SANDRA E. KENNEDY
CITY CLERK